

### REMARKS

Claim 1 has been amended to include the limitations of claim 4 and claim 4 has been canceled. Claims 5, 15, and 18 have been amended to depend from claim 1 instead of claim 4. Claim 25 has been added. No new matter has been added.

#### Election/Restrictions

In response to the election of species requirement mailed January 26, 2006, Applicant elected the species of Figures 3, 4, 7, 8, and 19 from Set 1 and the species of Figure 1 from Set 2. Claims 1-11, 15, 16, 18 and 24 were identified as reading on the elected species.

In the current Official Action, the Examiner has alleged that claims 5-11 are directed to material from the non-elected species of Figures 16 and 17 and has withdrawn claims 5-11. As to claims 8-10, Applicant agrees with the Examiner. However, as to claims 5-7 and 11, Applicant does not agree with the Examiner because claims 5-7 and 11 are properly included in the elected species as explained below.

Claim 5 is amended so that the communication passage is a communication groove that is formed in *the cylinder bore*, which is described in the specification at page 17, lines 21-22. This communication groove corresponds to the communication groove (50) formed in the cylinder bore (1a) as shown in Figure 3. Since Figure 3 is included in the elected species, claim 5 is included in the elected species.

Claim 6 recites that the communication groove recited in claim 5 includes an introduction portion (58a) that is broader at a crank chamber side than at a compression chamber side and forms substantially a sector in shape. Also, a periphery (E) of the piston at a swash plate side is positioned at the introduction portion when the piston is located substantially at its top dead center, which is shown in Figure 19. Since Figure 19 is included in the elected species, claim 6 is included in the elected species.

Claim 7 recites that the communication groove recited in claim 6 includes straight flute portion (58b) that is formed at the compression chamber side of the introduction portion (58a) and that extends in an axial direction of the drive shaft, which is shown in Figure 19. Again, since Figure 19 is included in the elected species, claim 7 is included in the elected species.

Claim 11 recites that a chamfer (50c) is formed at a periphery of the communication groove (50) recited in claim 5 at a compression chamber side. This element is described in the specification of the present application at page 18, lines 16-18, and shown in Figure 3. Since Figure 3 is included in the elected species, claim 11 is included in the elected species.

For these reasons, the Examiner is asked to consider claims 1-7, 11, 15-16, 18 and 24 as part of the elected species.

**Claim Rejections – 35 U.S.C. §102**

Claims 1-4, 15, 16, 18, and 24 stand rejected as allegedly being anticipated under 35 U.S.C. §102(b) by Takenaka et al (US 4,723,891) or Taguchi (US 4,747,753), under 35 U.S.C. §102(e) by Saeki (US 6,966,195), and under 35 U.S.C. §102(a) or (b) by Taguchi (EP 0900936) and JP 2000-0367279. These rejections are respectfully traversed.

In the proposed amendment, original claim 4 is incorporated into original claim 1 to form new claim 1. The technical feature of original claim 4 of the present application is not disclosed in the above cited documents. That is, the feature, "a communication path for interconnecting the crank chamber with the compression chamber only while the inclination angle of the swash plate is substantially the maximum inclination angle and the piston is located substantially at its bottom dead center", is not disclosed in any of the above cited documents. The above cited documents instead disclose a passage for interconnecting the crank chamber with the discharge chamber or the suction chamber through a valve or a throttle, which is completely different from the communication passage of the amended claim 1 of the present application. Withdrawal of the rejections of independent claim 1 and all claims dependent thereon is respectfully requested.

The feature of new claim 25 is shown in FIG. 3 in which the communication passage *directly* interconnects the crank chamber with the compression chamber. Allowance of new claim 3 is also solicited.


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**PATENT**

**Conclusion**

For the foregoing reasons, allowance of elected claims 1-3, 5-7, 11, 15-16, 18 and 24 is proper and is respectfully solicited. Withdrawal of all rejections and issuance of a Notice of Allowability are requested.

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